

The Administrative Law Judge found, for preliminary hearing purposes, that claimant was entitled to temporary total and medical benefits. The respondent and insurance carrier request this review and contend that the Administrative Law Judge erred in granting the request for temporary total and medical benefits, and erred in his finding pertaining to the temporary total disability rate. These are the issues now before the Appeals Board.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the entire record, the Appeals Board, for purposes of preliminary hearing, finds:

The Appeals Board does not have jurisdiction to review this preliminary hearing matter. Therefore, the Order of the Administrative Law Judge remains in full force and effect.

The jurisdiction of the Appeals Board to review a preliminary hearing order is statutorily created by K.S.A. 44-534a and K.S.A. 44-551. K.S.A. 44-534a enumerates four preliminary hearing issues that may be reviewed by the Appeals Board: 1) Whether the employee suffered an accidental injury; 2) Whether the injury arose out of and in the course of the employee's employment; 3) Whether notice is given or claim timely made; and, 4) Whether certain defenses apply.

The three issues currently before the Appeals Board are whether the Administrative Law Judge correctly determined the appropriate temporary total rate, whether claimant was temporarily and totally disabled during the period in question, and whether medical benefits and treatment were appropriate. As none of those issues fall within the parameters of those enumerated in K.S.A. 44-534a as set forth above, the Appeals Board does not have jurisdiction to review this matter pursuant to that statute.

K.S.A. 44-551 generally provides that the Appeals Board has jurisdiction to review a preliminary hearing order when the Administrative Law Judge has exceeded his or her jurisdiction in granting or denying the relief requested. An Administrative Law Judge is specifically empowered by K.S.A. 44-534a to make a preliminary award of medical and temporary total compensation. Therefore, the order to pay temporary total and provide medical benefits is within the Administrative Law Judge's scope of authority and jurisdiction. As a result, the Appeals Board does not have jurisdiction to review this matter pursuant to K.S.A. 44-551.

**AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that it lacks jurisdiction to review this matter and that the Preliminary Hearing Order of Administrative Law Judge John D. Clark, dated May 26, 1994, remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August, 1994.

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BOARD MEMBER

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c: Randy Stalcup, 2831 E. Central, Wichita, KS 67214  
J. Philip Davidson, 600 Epic Ctr, 301 N. Main, Wichita, KS 67202  
John D. Clark, Administrative Law Judge  
George Gomez, Director